

Amendments to the Drawings:

The attached sheet of drawings includes changes to Figure 2.

Attachment: Replacement sheet

REMARKS

Claims 1-4 stand rejected in the subject patent application. Claim 2 has been cancelled and replaced by new claims 5 and 6. Therefore, claims 1 and 3-6 will be pending after entry of this amendment.

Drawing Changes

Figure 2 has been amended, in response to the comments in the Office Action that the drawings should include reference numbers to features mentioned in the specification. Specifically reference numeral 16 has been added to identify the four digit numeric display and numerals 18, 20, 22, 24, and 26 have been added for the five buttons that serve as the user operable inputs described in paragraph [0009] of the specification.

Specification Changes

The Office Action suggested that application should contain the section headings of the preferred layout for the specification. The application already contains many of these headings. However, original paragraph [0002] of the specification has been divided hereby into two paragraphs with the first paragraph being prefaced by the heading “1. Field of the Invention” and the heading “2. Description of the Related Art” has been added before the remainder of the original paragraph.

In conformity to the additional numerals added to Figure 2, those reference numerals have been added to the corresponding description of the control display 14 in paragraph [0009] of the specification.

Rejection Under 35 U.S.C. §112

Claims 1-4 were rejected under the second paragraph of 35 U.S.C. §112 as being indefinite. The claims were cited as being narrative in form and replete with indefinite functional or operational language. It then was stated that the structure that makes up the device must be clearly and positively specified.

In response, claim 1 has been revised to recite that the housing has a front side with an opening and electric heating elements in the housing interior for cooking pizza. The functional phrase “for cooking pizza” defines the structural characteristics of the heating elements as being capable of producing a temperature that is sufficient for cooking pizza. Such functional limitation of an apparatus element is permitted under 35 U.S.C. §112.

The electronic user operable control in claim 1 also has been rewritten to state that it comprises first and second user selectable selection controls operable to activate the heating elements at different temperatures appropriate for cooking different types of pizzas. This change positively recites a temperature control as described in paragraph [00011] of the specification, that when operated by the user produces a given temperature within the oven that is appropriate for each type of pizza. This positively recites the temperature selection controls with functional limitations.

It is respectfully submitted that these amendments place claim 1 in compliance with 35 U.S.C. § 112.

Independent claim 4 has been amended to recite a housing that has a front side with an opening and interior heating elements for cooking pizza. This provides a functional definition of the structure of the heating elements as being capable for cooking pizza. The

electronic user operable control also has been amended to specify high and low temperature selection buttons that when operated respectively activate the heating elements at different temperatures and cooking times appropriate for either a pre-baked crust pizza or a self-rising crust pizza. In addition, the control has two cooking time changing buttons that change the cooking time from the default cooking time that was set by the operation of the appropriate high or low temperature button. It is respectfully submitted that the amendments place claim 4 in compliance with 35 U.S.C. §112.

Double Patenting Rejection

Claims 1-4 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the claims of U.S. Patent No. 4,528,802.

That patent claims a device for sealing a pizza or other food item within a heat shrinkable plastic film and does so without cooking the pizza. The patent claims have a disk for supporting the pizza above a heat source and an inner tubular shroud around the heat source that directs hot air upward to shrink the plastic film. The claims recite an outer tubular shroud with a critical diametric relationship to the inner tubular shroud and to the pizza, so that the plastic fill will not melt upon touching the outer shroud. Such inner and outer tubular shrouds and their stated functional limitations are not remotely suggested by the present application's claims directed to a pizza cooking oven. Note that the presently pending claims do not suggest anything about not melting a plastic film, because the user removes the plastic wrap from the pizza before insertion into the cooking oven.

The claims of the present cooking oven specify electric heating elements for cooking pizza and a control that activates the electric heating elements to temperatures

sufficiently high to cook the pizza. Such heating elements and temperature selection controls are not suggested by the claims of the 4,528,802 patent because such high temperatures would melt the plastic film onto the pizza. In addition the claims of that patent do not suggest any control of the heating elements, much less the specific control element recited in the claims presently under consideration.

Therefore, the elements of the patent's apparatus for shrink wrapping a pizza are not suggested by the present application's cooking oven claims. Conversely the components of the cooking oven in the presently pending claims are not suggested by the claims for the shrink wrapping apparatus in the 4,528,802 patent. As a consequence, the claims in both the present application and the cited U.S. patent are patentably distinct from each other and the double patenting rejection is unfounded.

Conclusion

Applicant requests reconsideration and allowance of the present application.

Respectfully submitted,
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